

MAY 27 2005

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RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

QR 05-337 MAT

No. CR 3-04-30361 JCS

STIPULATION CONTINUING DATE OF  
PRELIMINARY HEARING OR  
ARRAIGNMENT AND EXCLUDING  
TIME UNDER THE SPEEDY TRIAL ACT  
CALCULATION (18 U.S.C. §  
3161(h)(8)(A)) AND ~~[PROPOSED]~~  
ORDER


The parties request this continuance on the grounds that: (1) the United States and Mr. Kalar, counsel for Ms. Small, are in discussions regarding the matter that will likely impact the outcome of Ms. Small's matter; and (2) Mr. Kalar believes that postponing the preliminary hearing is in Ms. Small's best interest, and that it is not in his client's interest for the United States to indict

the case before the June 8, 2005 preliminary hearing date. The parties agree that the requested continuance is necessary for effective preparation of defense counsel.

The parties stipulate and agree that the above-stated reasons constitute good cause to support a continuance under Rule 5.1 of the Federal Rules of Criminal Procedure and 18 U.S.C. § 3060. The parties also stipulate and agree that the stated reasons support a continuance of the preliminary hearing or arraignment date under Title 18, United States Code, Sections 3161(b) and 3161(h)(8)(B)(iv) and that the failure to grant the requested continuance would deny counsel for the defense the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

IT IS SO STIPULATED.

DATED: May 25th, 05

  
 DENÉE A. DILUIGI  
 Special Assistant United States Attorney

DATED: May 25, 05

  
 STEVEN KALAR  
 Attorney for Ms. Small

### ORDER

For the foregoing reasons, the Court finds that good cause is shown and concludes that the continuance is proper under Rule 5.1 of the Federal Rules of Criminal Procedure and 18 U.S.C. § 3060.

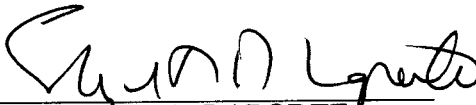
The Court FURTHER ORDERS that an exclusion of time between May 23, 2005 and June 8, 2005, is warranted under the Speedy Trial Act because a failure to grant the continuance would unreasonably deny defense counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. 18 U.S.C. § 3161(h)(8)(B)(iv). The Court finds that the ends of justice served by excluding time under the Speedy Trial Act outweigh the best interest of the public and the defendant in a speedy trial and in the prompt disposition of criminal cases. *Id.* § 3161(h)(A). The Court, therefore, concludes that this exclusion of time is

proper pursuant to 18 U.S.C. § 3161(h)(8)(B)(iv).

The defendant is HEREBY ORDERED to appear before Judge James on June 8, 2005 at 9:30 a.m.

IT IS SO ORDERED.

DATED: May 24, 2005

  
ELIZABETH D. LAPORTE  
United States Magistrate Judge